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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554
JUN 1 4 1994

In the Matter of

PRIME TIME ACCESS RULE PETITIONS
First Media Corporation
Channel 41 Inc.
Hubbard Broadcasting, Inc.

94-123
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY
MMB File No. 900418A
MMB File No. 870622A
MMB File No. 920117A

To: The Commission

COMMENTS OF MTM TELEVISION DISTRIBUTION, INC.

MTM Television Distribution, Inc. ("MTM"), by its counsel and in accordance with the Commission's Public Notice of April 12, 1994, submits these comments regarding the Commission's consideration of the above-referenced petitions seeking various changes to the Prime Time Access Rule (PTAR), 47 C.F.R. Section 73.658(k).

1. The various petitioners seek either the issuance of a declaratory ruling or the commencement of a rule-making proceeding to reconsider PTAR in view of the passage of time and the changes in the television industry since its creation. MTM takes no position on the merits of the petitioners' specific contentions; however it asks that in any responsive order or notice the Commission address MTM's own long-standing request for confirmation, and clarification to the extent necessary, of the existing PTAR policy.

2. Over a year ago MTM filed a request with the Mass Media Bureau for guidance concerning the current PTAR rule. MTM asked the Bureau to reiterate its earlier-stated policy regarding the

discretion of television licensees to categorize a program or series as a "documentary" for purposes of PTAR.^{1/} In particular, the request dealt with the applicability of licensee discretion regarding such classification of RESCUE 911, an "off-network", reality-based program series which provides public health and safety information. The series falls clearly within the PTAR - "documentary" exemption.^{2/} But network affiliates have been reluctant to schedule RESCUE 911 during prime time because it departs from the classic documentary form. Licensees subject to PTAR have numerous program choices, and they are reluctant to take even the smallest perceived risk regarding possible violation of the Commission's rules. This natural reluctance has been abetted by parties with competing economic interests which have mischaracterized MTM's position and sought to belittle the merit of RESCUE 911.^{3/}

^{1/} Letter of February 4, 1993 from counsel for MTM to Roderick K. Porter, Deputy Chief, Mass Media Bureau (attached hereto). This letter supplemented and replaced an earlier request which had been submitted on informal staff advice by letter of November 10, 1992. MTM provided additional material by a letter of March 29, 1993 addressed to the Chief of the Mass Media Bureau (attached hereto). No action has been taken to date by the Mass Media Bureau on these requests. MTM respectfully requests that those earlier letters be incorporated into these Comments by reference.

^{2/} Documentaries, among other specified types of programs, need not be counted toward the three-hour limitation on network or off-network programming on week nights and Sunday nights. Note 2 to Section 73.658(k)(1) contains the definition (in pertinent part), "[t]he term documentary programs means programs which are non-fictional and educational or informational."

^{3/} See the letter from David L. Donovan of Association of
(continued...)

3. As the Commission considers the future of PTAR, MTM repeats its long-pending request for confirmation of the established proposition that program categorization is a matter left entirely to the good faith judgment of licensees and that licensees subject to PTAR may reasonably categorize RESCUE 911 as a "documentary" and schedule it during prime time.

Respectfully submitted,

MTM TELEVISION DISTRIBUTION, INC.

By: Lawrence M. Miller
Lawrence M. Miller

By: Steven C. Schaffer
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June 14, 1994

3/(...continued)

Independent Television Stations to Chief, Mass Media Bureau (February 8, 1993); "Opposition and Comments of the Motion Picture Association of America, Inc." (March 2, 1993); and the letter from counsel to The Walt Disney Company to the Chief, Mass Media Bureau (March 1, 1993).

CERTIFICATE OF SERVICE

I, Margaret Vanover, secretary in the law firm of Schwartz, Woods & Miller, do hereby certify that I have on this 14th day of June, 1994 sent by First Class United States mail, postage prepaid, copies of the foregoing **COMMENTS OF MTM TELEVISION DISTRIBUTION, INC.** to the following:

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March 29, 1993

Mr. Roy J. Stewart, Chief
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

RECEIVED

MAR 29 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: RESCUE 911

Dear Mr. Stewart:

On behalf of MTM Television Distribution, Inc. ("MTM"), we hereby reply to the oppositions filed by the Association of Independent Television Stations, Inc. ("INTV"), The Walt Disney Company ("Disney") and the Motion Picture Association of America, Inc. ("MPAA") with respect to MTM's request of February 4, 1993 ("MTM's Request") seeking the Bureau's confirmation that the classification of a program as a "documentary" for the purposes of the Prime Time Access Rule (PTAR) may be made by licensees in good faith and the assurance that licensees could reasonably categorize RESCUE 911 as a "documentary".

As discussed below, the opponents to MTM's Request have wholly mischaracterized MTM's Request in order to serve their own agendas, the reformation or elimination of PTAR. MTM is not seeking and at no time has sought a waiver or declaratory ruling with respect to the classification of RESCUE 911 as a documentary; rather, it is seeking a reiteration of the rule itself as it applies to RESCUE 911. Describing the series as a "reality" show does not make it less of a documentary. RESCUE 911 is clearly non-fictional, educational and informational and therefore squarely complies with the PTAR definition of a documentary.

The opponents to MTM's Request further claim that licensees cannot broadcast RESCUE 911 Monday through Friday ("stripping"). They rely on a footnote in the Second Report and Order which would have prohibited stripping of documentaries during the prime time access period. As MTM has previously discussed (MTM Request, pp. 4-5), the stripping prohibition referred to by the opponents to MTM's Request did

not become effective. The Third Report and Order did not incorporate the stripping prohibition in considering a ceiling on the amount of exempt material which could be scheduled by a station. However, if the Bureau determines that the footnote in the Second Report and Order is Commission policy, then MTM believes a waiver with respect to the stripping prohibition should be granted due to the great public interest value of the series. Despite Disney's protestations (Disney's letter, p. 2), it is clear that the Bureau has the authority to grant such a waiver. The Second Circuit Court of Appeals in NAITPD barred only waivers and advisory opinions regarding program content because the use of such procedures would constitute "in effect, a system of precensorship".^{1/} MTM is not, however, requesting a waiver which in any way affects program content; it seeks a waiver only as to any stripping limitation which the Commission might consider to be in effect.

MTM'S REQUEST SEEKS A REITERATION OF PTAR
AS IT APPLIES TO RESCUE 911

Disney incorrectly lumps MTM's Request with the waiver request of Andrew Solt Productions ("ASP") for the television series THE ED SULLIVAN SHOW. ASP expressly requests a waiver of either the documentary definition or, in the alternative, a waiver of the off-network program restriction set forth in PTAR. Unlike RESCUE 911, ASP's waiver request is based on a show that clearly is not a documentary. In fact, THE ED SULLIVAN SHOW falls directly into the exception to documentaries as set forth in Note 2 of Section 73.658(k) in that the series relates "to the visual entertainment arts" and "more than 50% of the program is devoted to the presentation of entertainment material itself".^{2/} Mischaracterizing MTM's Request as one for a waiver and comparing MTM's Request to ASP's request, Disney proceeds to discuss at great length why such a waiver should not be granted, using the opportunity to campaign for its previously stated position that the off-network prohibition should be eliminated from PTAR (Disney letter, pp. 1-2).^{3/} INTV charges that the distinction be-

1/ National Association of Independent Television Producers and Distributors v. FCC ("NAITPD"), 516 F.2d 526, 540-1 (2d Cir. 1975).

2/ 47 CFR 73.659(k), Note 2.

3/ Disney muddies the waters by citing informal advice it purportedly received from the "Mass Media Bureau front office staff" regarding PTAR treatment of a series to which Disney holds syndication rights. Disney states that the staff confirmed "that its policy was still not to issue declaratory rulings or grant waiver of PTAR" and "also confirmed that the Commission's policy was not to apply the documentary exception to stripped shows." (Disney letter, pp. 9-10, 14-15).

(continued...)

tween MTM's request and a declaratory ruling is a "metaphysical" one and therefore should not be granted (INTV Opposition, p. 1). The MPAA also incorrectly characterizes MTM's Request as one for a declaratory ruling or waiver of PTAR and charges that MTM has failed to follow "established procedures" (MPAA Opposition, p. 3).^{4/}

MTM concurs with its opponents that the Second Circuit Court of Appeals' decision would not permit waivers or declaratory rulings with respect to program content;^{5/} however, the Bureau does have the authority to issue a confirmation that licensees could reasonably categorize a program as a "documentary" under the PTAR definition. As discussed in MTM's Request, the Commission, after its reexamination of PTAR on Court remand and during the process of amending PTAR, was asked to confirm that the series AMERICA and VICTORY AT SEA were properly classified as "documentaries" under the new PTAR definition. The Commission responded to the requests by stating "that licensees could reasonably regard both AMERICA and VICTORY AT SEA as documentary programs" and declaring that both series may be shown under the revised PTAR.^{6/} MTM simply asks for the same advice -- that licensees could reasonably regard RESCUE 911 as a documentary program for the purposes of PTAR -- or, at a minimum, MTM requests a mere reiteration of its policy that licensees can make a good faith determination as to what constitutes a documentary for the purposes of PTAR. Further, despite MPAA's charges that MTM has failed to follow an "established procedure", MTM is acting in accordance with the procedural guidelines suggested by the Mass Media Bureau staff.

3/ (...continued)

Although no written decision was issued and there is no evidence that the Disney situation is similar to that of MTM, Disney is saying, in effect, that since it decided not to pursue the point, everyone else is estopped from doing so.

4/ If anyone has failed to follow procedure, it is the opponents to MTM's Request. Disney and the MPAA are cloaking their requests to reform or preserve PTAR, respectively, in their responses to MTM's Request. MTM has not set forth any position as to the future of PTAR and therefore the opponents have gone far beyond the scope of a response.

5/ NAITPD, supra.

6/ Prime Time Access Rule, 53 FCC2d 618, 624 (1975).

RESCUE 911 FITS SQUARELY WITHIN THE PTAR DEFINITION
OF "DOCUMENTARY"

A. INTV creates new criteria in defining "documentaries".^{7/} INTV's opposition suggests an entirely new definition for "documentaries" which would discourage any innovation in television documentaries. Instead of confronting the fact that RESCUE 911 meets the definitional requirements of a documentary, INTV rewrites the rule to provide exemptions only for programs produced independent of network control, which contain only actual footage of actual events and instructional segments and which would otherwise not be financially viable. Having thus rewritten the rule to fit its purpose, INTV of course self-servingly concludes that RESCUE 911 is not a documentary.

Implicit in INTV's opposition is the premise that unless a program is boring and otherwise unwatched, it cannot constitute a documentary for PTAR purposes. According to INTV: (1) "high drama" makes a program too interesting to be a documentary; (2) the use of a well-known host who is trained in presenting material in an interesting manner and whom the public may enjoy watching and listening to (rather than a dull scientific or medical expert with little exposure to public speaking) instantly propels a program into the entertainment arena; and (3) the use of re-enactments would make a program too exciting for the world of documentaries.

However, despite INTV's refined aesthetic standards for a documentary, RESCUE 911 contains all the historical components of a classic documentary. Arnold Shapiro, the creator and executive producer of the program, is one of the most well-known and highly acclaimed documentary makers in the industry today, having won twelve Emmys and one Academy Award for documentaries which he has produced.^{8/} The show uses many of the actual people involved in the underlying stories both in interviews and in re-enacting the story. Actors are only used if the person depicted is unavailable or if re-enacting the story would be too traumatic. The actors are chosen based upon their resemblance to the people depicted rather than their "star quality". Re-enactments are used as an alternative when actual footage is not available.

Although the "look" of documentaries may have changed with the creative and technological evolution of television, documentaries are what they have always been -- non-fictional accounts educating and/or informing the public. If INTV wants

^{7/} Both Disney and the MPAA rely on INTV's arguments regarding proper classification of RESCUE 911; therefore, MTM addresses INTV's position as response to all three opponents.

^{8/} Shapiro has been responsible for such well-known documentaries as SCARED STRAIGHT and SCARED SILENT.

to change the definition of "documentaries" to exclude re-enactments, the use of stars as narrators and high drama, to demand the inclusion of "instructional segments" (however this is defined by INTV), or to limit the definition only to independently produced programs, then it should propose a change in the rules. Until such time, however, the PTAR definition does not include any such limitations.

B. RESCUE 911 contains all the elements of a "documentary" as defined by PTAR. The Commission has clearly set forth an unambiguous definition of "documentary" for PTAR which, contrary to INTV's position, fully applies despite changes in television technology and programming. A program must be "non-fictional and educational or informational". RESCUE 911, beyond question, fits the PTAR definition of a "documentary".^{2/} INTV's gratuitous belittling of RESCUE 911 and comparison to children's animated shows and docu-dramas is entirely misplaced and ignores the extraordinary public interest value of the program.

Each episode of RESCUE 911 contains non-fictional accounts of rescues by professionals, volunteers and ordinary citizens. Whenever available, actual footage is used. Re-enactments are employed only when actual footage is not available. Re-enactments have been used by other programs and series recognized as documentaries such as THIN BLUE LINE and THE AMERICAN EXPERIENCE. Since the principals of the rescue are interviewed and, when available, used in the re-enactments, fictional elements are not added. In addition, "day in the life" segments are produced wherein RESCUE 911 personnel record events as they happen with the cooperation of fire departments, emergency response units, hospitals and other life-saving institutions.

Further, it is clear that RESCUE 911 is both educational and informational by teaching the public about life-saving techniques. As stated in the attached statement of Mr. Shapiro, segments are produced only if there is a lesson to be learned. In fact, the program has been credited with saving more than 165 lives (a figure that does not take into account many more that have likely gone unreported). Moreover, RESCUE 911 has received numerous honors and awards by national and local organizations involved in safety and rescue activities including the National Academy of Emergency Medical Dispatch, the American College of Emergency Physicians, the American Red

^{2/} MTM has set forth many of the documentary features of RESCUE 911 in its request (MTM's Request, p. 2). For brevity, this reply shall not repeat all those features. However, MTM refers to the attached statement of Arnold Shapiro, incorporated herein by reference, as an expert in the field of documentaries, as further evidence of MTM's position.

Cross and the National Safety Council.^{10/}

RESCUE 911 has recently presented a program depicting the stories of some of 165 lives saved from watching the series. A victim of an accidental shooting survived because his friend had learned from watching RESCUE 911 how to apply pressure directly on a wound to stop the bleeding injury. A father rushed home and saved his children from carbon monoxide poisoning caused by a faulty furnace after watching an episode of RESCUE 911 on the subject while waiting in a hospital emergency room with his wife, the first family member to have become a victim from the leaking gas. People have successfully performed cardio-pulmonary resuscitation and the Heimlich maneuver learned while watching RESCUE 911. Children have learned the importance of dialing 9-1-1 to assist stricken parents and grandparents. Viewers are urged to take CPR and other life-saving instructional courses. As indicated in Mr. Shapiro's attached letter, thousands of Americans have enrolled in CPR courses directly as a result of watching the series. What could be more proof of the educational and informational value of a show than the saving of lives? Yes, the show contains "high drama" because saving lives is high drama. Making education interesting does not reduce the benefit of what is learned.

The opponents to MTM's Request find it significant that MTM did not list RESCUE 911 as a "documentary" in the NATPE International Programmer's Guide. INTV's accusation that "MTM cannot tell Washington one thing and then market the show as something else" is a red herring created by INTV to cloud the issue. The fact that a show is listed as a "reality" show or a "series" in a trade directory does not make it less of a documentary. If INTV's argument were accepted, the fact that National Geographic specials and WILD KINGDOM were listed as "animal/nature" shows in the same trade directory would result in these two successful documentary series not being treated as such.

C. Granting MTM's request will allow licensees to make their own good faith program judgments to best serve the public interest. Noting that the FCC has not responded to MTM's Request, INTV argues that such silence is "tantamount to a grant". Given that licensees are loathe to risk being second-guessed by the Commission regarding their good faith judgments and risk the potential penalty, the Commission's silence is tantamount to a denial. In a program marketplace where options are plentiful, licensees will opt for the risk-free solution. MTM has been advised by several major market network affiliates, including KCBS, the CBS affiliates in Los Angeles, that its preference would be to telecast RESCUE 911 during prime time access but it will not for fear of adverse

^{10/} See attached articles from a special insert contained in the February 8, 1993 The Hollywood Reporter.

Commission action.^{11/}

THE "STRIPPING PROHIBITION" OF THE SECOND REPORT AND ORDER
DID NOT SURVIVE THE COMMISSION'S REVISION OF PTAR
AFTER COURT REMAND

INTV argues that PTAR is subject to a prohibition on the stripping of documentary series. Disney states that it decided to license UNSOLVED MYSTERIES to cable rather than broadcast syndication because it confirmed "that the Commission's policy was not to apply the documentary exemption to stripped shows."^{12/} The plain language of the rule contains no stripping limitation or ceiling on the amount of scheduled exempt programs.^{13/} The opponents to MTM's Request rely on a footnote in the Commission's 1975 decision which initially revised PTAR stating that "the stripping of off-network material on the theory that it is a ... documentary program, would not be regarded as consistent with the spirit or objectives of the rules."^{14/} This footnote accompanied and expounded on a statement by the Commission admonishing licensees regarding the amount of exempt programming which could be scheduled. Later in the same paragraph, the Commission similarly cautioned networks to "avoid any incursion" into the Saturday night access time period "unless there are compelling public interest reasons for so doing". The Court found the warning by the Commission regarding Saturday night access raised a "serious question" and ordered the Commission on remand to consider whether a ceiling on the use of exempt programming was re-

^{11/} Other network affiliates, such as WCAU in Philadelphia, have advised that they would like to option to telecast RESCUE 911 during prime time access but at this time would not consider that they had such an option because of their fear of adverse Commission action.

^{12/} Disney has presented no evidence that UNSOLVED MYSTERIES is non-fictional, educational or informational. Disney appears to believe that all reality programs are the same and even speculates that the clearly fictional L.A. LAW might qualify -- a ridiculous exaggeration.

^{13/} INTV also argues that the Commission's determination not to impose a "ceiling" concerned "the basic definitional requirement of what is or is not qualified programming" rather than the "total amount of [exempt programming] that can be aired during the access period." To the extent this argument can be understood, INTV apparently believes that a series with sufficient episodes for daily telecasts cannot, by definition, be a "documentary".

^{14/} Second Report and Order in Docket 19622, 50 FCC2d 829, 843 (1975).

quired.^{15/} Accordingly, on remand, the Commission considered both the amount of exempt programming which could be scheduled and the Saturday night access issue in tandem and concluded that no overall ceiling was necessary "to afford sufficient protection for access time availability to sources of new non-network material."^{16/} The Commission's decision not to impose a ceiling was supported by its restriction of the use of exempt material for Saturday access. The Commission imposed no other limitation on the use of exempt material by licensees. Therefore, the Commission's actions on remand negated the "stripping" footnote.

IN THE EVENT A STRIPPING PROHIBITION EXISTS, A WAIVER OF SUCH PROHIBITION IS JUSTIFIED FOR RESCUE 911

Notwithstanding the foregoing, in the unlikely event the Commission determines that the daily broadcast of a program precludes the use of the documentary exception to PTAR, MTM has asked for a waiver of any such limitation to permit the broadcast of RESCUE 911 during prime viewing hours.

A. The Commission has the authority to grant such a waiver. Despite Disney's protestations to the contrary, the Commission has the authority to grant a waiver to a stripping prohibition of exempted programs under PTAR. In NAITPD, the Second Circuit Court of Appeals prohibited the Commission from granting waivers regarding the content of individual programming to avoid instituting a "system of precensorship."^{17/} However, as noted by Disney, the Commission has the authority to rule on "non-content-based" PTAR waiver requests (Disney opposition, p. 8). The contingent waiver requested by MTM is clearly "non-content based".

The waiver does not involve defining or categorizing RESCUE 911 nor touch on program content and therefore, a waiver by the Commission would not result in pre-censorship. MTM merely seeks a waiver only as to any stripping limitation which the Commission considers to still be in effect.

B. A waiver of a stripping prohibition for RESCUE 911 is justified. As previously discussed at great length, RESCUE 911 stands apart from all other documentaries in providing a great public service. The value of the lives saved and the information imparted to the public is self-evident. Clearly, RESCUE 911's teaching of safety techniques and saving of lives stand the scrutiny of the "high hurdle" test which a

^{15/} NAITPD, supra, at 541, 544.

^{16/} Third Report and Order, 53 FCC 2d at 340.

^{17/} NAITPD, supra, at 540.

waiver proponent must meet.^{18/}

Based upon the foregoing, it is clear that the opponents to MTM's Request are really seeking to either reform or partially eliminate PTAR and are using their oppositions here to advance their more general policy goals. INTV and Disney's positions suggest that the entire rule may have outlived its purpose in today's television market. However, the PTAR exists and no change of the rule is required for the Commission to approve MTM's position -- that licensees can reasonably categorize RESCUE 911 as a documentary and schedule the series on a daily basis. Absent the Commission's guidance, a chilling effect will result in that network affiliate licensees fearful of challenges such as those currently before the Commission will not risk the choice of a documentary which saves lives over yet another game show. MTM believes that the public would be much the worse for that result.

Respectfully submitted,

SCHWARTZ, WOODS & MILLER

By: 
Steven C. Schaffer

Encls.
SCS/nmc

^{18/} W.A.I.T. Radio v. FCC, 418 F.2nd 1153 (D.C. Cir., 1960);
Rhodes Productions, Inc., 58 RR 2d 126 (1985).

RESCUE 911

March 16, 1993

Mr. Neil Strum
Senior Vice President/
Head of Business and Legal Affairs
MTM Television Distribution
4024 Radford Ave.
Studio City, CA 91604

Dear Neil,

At your request, here are the points I would like to make as to why "Rescue 911" is a documentary. I have been creating, selling, writing and producing/executive producing documentary series and specials for 25 years. I have produced dozens of documentary specials for local, syndicated, and network television, ranging from the most classic/traditional forms to the most ground-breaking and innovative. I have 12 Emmy Awards and one Academy Award for documentaries I have produced. Among the most famous are "Scared Straight!" hosted by Peter Falk, syndicated nationally and internationally; and "Scared Silent: Exposing and Ending Child Abuse," hosted by Oprah Winfrey, which has the distinction of being the most watched documentary special ever broadcast on American television. It was simulcast on CBS, NBC, and PBS last September 4, and shown on ABC, September 6. It has been shown in more than 20 countries to date.

The format of "documentary" in the 1990's is much broader than before. All of us who are documentarians are excited about how much we've been able to "push the envelope" of style, form, and content of documentaries. Anyone who adheres to the industry concept of a documentary from ten years ago, is not in touch with the realities of today's documentary diversity.

"Rescue 911" which began in early 1989, contains elements of the traditional documentary form. For example:

- * We use actual footage purchased from news organizations and other sources.
- * We shoot original footage of emergencies and rescues on the scene as they are happening.
- * We interview on-camera the actual participants in all our stories.
- * We use on-camera and voice-over narration.

KATY FILM PRODUCTIONS/ARNOLD SHAPIRO PRODUCTIONS
1438 N. Gower Ave. Box 53, Hollywood, CA 90028
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- * Most importantly, every "Rescue 911" story or piece contains a lesson to teach kids and adults about such topics as safety, preventing accidents, the importance of enrolling in classes to learn CPR and the Heimlich maneuver. We teach people how to behave in all kinds of emergencies and how to properly use the 911 system. We have done pieces on fire safety, water safety, gun safety, drinking and driving, and numerous other life-saving lessons.
- * Our narrator and host, William Shatner, has narrated many other documentaries. Among them are several "National Geographic" Specials for PBS, and two documentary specials of which I'm aware: "Top Flight," for CBS, which I produced; and "Blackbirds In The Sun" for PBS. Virtually all documentaries now use celebrity hosts/narrators to help attract a larger audience. Only those news documentaries made by NBC, CBS, and ABC News use a news person to host.

Documentaries traditionally have sought to educate viewers and/or to advocate a point of view. "Rescue 911" does both. We're educating viewers in both prevention and life-saving behavior with virtually every story we present. Our point of view is always to be prepared for emergencies, enroll in CPR classes through the American Red Cross; to consider being an organ donor upon death; and all the "you can't say it enough" lessons for kids about avoiding dangerous strangers at home and in public.

Most importantly, "Rescue 911" is the only television series I'm aware of that is literally saving the lives of its viewers! Every time we receive a letter, phone call or newspaper clipping in which we're told that something someone learned from "Rescue 911" saved their life or helped them save someone else's life, we verify the story with others. To date, we have verified that our series has been responsible for helping to save the lives of more than 165 viewers! Although we have received prestigious awards from virtually every emergency medical organization and 911 dispatch organization, we are most proud that our series is helping to save lives every week we are on the air.

We also know that "Rescue 911" is responsible for preventing countless accidents, injuries, and emergencies. This is testimonial evidence from viewers and emergency workers. However, we don't have statistics on this because it's difficult to measure the prevention (or absence) of an event. Still, we are gratified that people have avoided or prevented danger, injury and death as a result of something they learned from "Rescue 911."

We do know that enrollments in EMT classes (Emergency Medical Technicians) and applications to become 911 dispatchers have increased since our series premiered. I personally was told in 1990 that enrollments in EMT classes in Connecticut and in Massachusetts had nearly doubled since "Rescue 911" went on the air.

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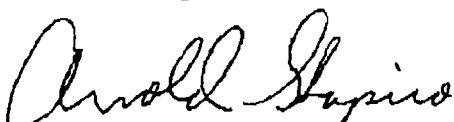
To the extent that there is any controversy over calling "Rescue 911" a documentary, it is possibly over the use of "recreations" to visually present a story where neither our documentary cameras nor any news cameras were present. When acquired footage or our own footage doesn't exist, we recreate portions of the story using the actual people involved (when it's safe to do so) and actors or stunt professionals when that's called for.

Many of today's documentaries now use recreations with actors as part of telling a story. Even so-called "classic" documentaries like those on the PBS series, "The American Experience," have used recreations. Two that I personally saw include the story of the assassination of President Garfield which was filled with dramatic recreations; and another documentary about a 19th century New England woman and the prejudice she experienced in her small town. Many top-quality documentaries on PBS and elsewhere incorporate recreations. They are still documentaries by any knowledgeable person's definition.

As an Oscar and Emmy-winning documentarian, a charter member of the International Documentary Association, and a teacher of courses about documentary filmmaking through UCLA Extension for 12 years now, I can tell you definitely that "Rescue 911" falls well within the definition of documentary programming.

With all due modesty, I feel eminently qualified to address this topic, especially since I am the one who developed "Rescue 911." I hope that the points made in this letter will be of help in answering any person who questions what "Rescue 911" is all about. Please let me know if I can be of further help.

Cordially,



Arnold Shapiro
Executive Producer

AS:cp

~~THE~~ REPORTER

SALUTES RESCUE 911

A Heroic Undertaking

Arnold
Shapiro's
chronicle

human
bravery
celebrates
its
100th
episode
tonight.

BY
STEVE
CHAGOLLAN

A leaky home furnace poisons a family with carbon monoxide and the father must prevent them from falling into deadly sleep.

A runaway train strikes an elderly couple's automobile, dragging them down the tracks as a police officer races against time to prevent the car from being crushed by a narrow bridge.

An adolescent girl is swept into a powerful river current, and three adults almost drown while attempting to save her.

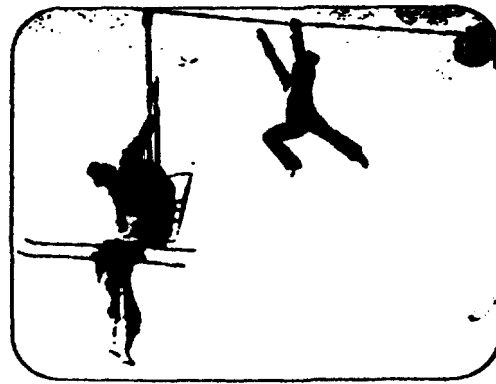
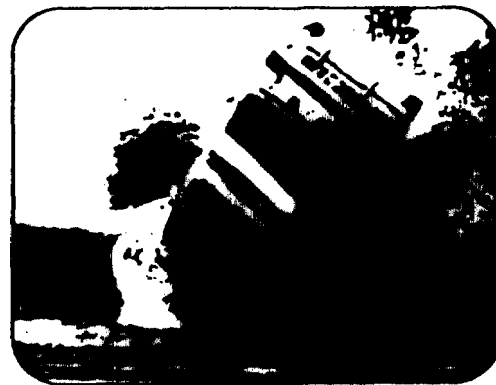
These are just a few of the real-life incidents that have been told during the course of "Rescue 911's" run on CBS. Now in its fourth season, the award-winning one-hour show celebrates its 100th episode tonight.

Its subjects, normal everyday citizens, often act on their own. But usually they're assisted by law enforcement or emergency professionals, such as firefighters, paramedics or medical technicians. Whatever the case may be, "Rescue 911" undertakes a nationwide search to uncover the most compelling incidents of human bravery in life-or-death situations.

These are the kinds of events people think will never happen to them but that usually end up changing their lives forever.

Not only are "Rescue 911" producers interested in utmost accuracy in re-creating these true stories, they place their faith squarely on the facts to draw in their viewers. The drama and heroism inherent in the tales they choose to tell negate the need to exploit or exaggerate, they say.

This at a time when producers are under increased scrutiny about blurring the line between fiction and reality in entertainment. Such features as "Hoffa" and fact-based MOWs like the rival Amy Fisher sagas are criticized for distorting or mythologizing their subjects. And sitcom characters Murphy Brown and Roseanne have become enmeshed



in a kind of reflexive theater, responding to real-life public figures and events.

Despite the debate, reality-based episodic TV continues to flourish. "A Current Affair" and "America's Most Wanted" paved the way in the late '80s for a whole new genre of programming that now includes "Hard Copy," "Cops," "American Detective" and "Secret Service."

Of these fact-based shows, "Rescue 911" is not only one of the most popular but perhaps the most distinguishable. Its subject matter — public servants and citizens responding to crisis situations — determinedly sidesteps the tawdry and sensational elements that are part and parcel of the tabloid shows, and it eschews the lurid criminality that propels the law-enforcement programs.

"Rescue 911" focuses on the positive aspects of human behavior rather than the deviant, it celebrates the human spirit rather than condemning society's weaknesses, and it holds no fascination for the rich and powerful but instead focuses on the common man and woman and their capacity for performing uncommon acts of valor.

"Our show is involved in showing people at their finest moments," notes "Rescue 911" executive producer Arnold Shapiro, "whereas many of the reality shows portray the scum of the Earth at their worst moments."

But perhaps more important, "Rescue 911" is the outgrowth of producers who come out of documentary backgrounds and who are committed to being as factual as possible. The program's segments — which run three to four per hourlong episode — require the cooperation of all those involved in the different incidents, from the victims to their rescuers, whether they be friends, relatives, loved ones or firefighters, paramedics, police officers, 911 dispatchers or a combination thereof.

A testament to the show's accuracy lies in the numerous awards it has received from such groups as the National Academy of Emergency Medical Dispatch, the National Association of Emergency Medical Technicians and the American Red Cross.

in fact some of the re-creations look so genuine you have to ask yourself, 'Is this a re-enactment or is this real?'"

"Rescue 911" coordinating producer Ronnie Weinstock says the staff's preoccupation with "doing it right" sets the show apart from all the others in

perform. Moreover, the show has inspired scores of students to enter the emergency medical technician field. According to Shapiro, during "Rescue's" first season, enrollment in EMT classes doubled in Massachusetts and Connecticut. State officials could not credit any factors for the rise other than the show's debut over the airwaves.

Although not listed in "Rescue 911's" credits, CBS Radio commentator Charles Osgood is as responsible as anyone for the show's genesis. In December 1988, "The Osgood File" aired about 2 1/2 minutes of a taped 14-minute 911 call. The horrific call came from a 10-year-old girl in Arlington, Texas, whose father was being attacked by an armed burglar. The listener could hear the death struggle occurring in the background.

"Her 14-year-old brother ultimately gets a gun and kills the intruder," explains Shapiro, "and this happens during the call — you can hear everything."

Driving to work that day, Kim LeMasters, then-president of CBS Entertainment, heard the gruesome tale on his radio. That morning he told Norman Powell, then-head of CBS Entertainment Prods., that CBS should develop a series around 911 calls. He also told Powell to find a documentary producer to spearhead the effort.

"Thank God Norman knew me and didn't know anybody else," says Shapiro. "So he called me into his office and said, 'We want to do three specials based on 911 calls.' They didn't know whether they wanted them to be pure documentary like 'Cops' or whether they wanted pure re-creation."

Ultimately they settled on a combination of the two, deciding to use actual videotaped footage when available, while producing re-enactments to fill in the blanks. Shapiro brought

Continued on page S-9

Saving the World

"Rescue 911" has been sold in the following territories:

Argentina	Malaysia
Australia	Malta
Barbados	Mexico
Belgium	Netherlands
Bolivia	Netherlands Antilles
Brazil	New Zealand
Canada	Nicaragua
Chile	Norway
Costa Rica	Panama
Curacao	Paraguay
Cyprus	Peru
Denmark	Philippines
Dominican Republic	Russia
Ecuador	Saint Lucia
El Salvador	Saudi Arabia
Finland	Seychelles
France	South Africa
Germany	South Korea
Guatemala	Spain
Honduras	Sweden
Indonesia	Thailand
Ireland	Trinidad
Italy	Turkey
Jamaica	United Kingdom
Japan	Uruguay
Kuwait	Yugoslavia
Luxembourg	Zimbabwe

"To be honored by the people who could be our toughest critics tells us that we're really doing it right," says Shapiro.

The professionals concur. "The show is pretty accurate, especially their re-enactments," asserts Diana Aronson, a 911 dispatcher for the Los Angeles Fire Department for 18 years. Adds Steve Valenzuela, a captain in the L.A. County Fire Department: "'Rescue 911' really tries to make the situations as realistic as possible, and

its class. "We try so hard to make everything real, with locations, conversations with the principals involved, taped 911 calls, actual footage taken from the scene — as much as we can. We treat every detail of the story as honestly as we can."

In fact, 911 dispatch centers across the country use tapes of the program to show prospective emergency operators the various situations they might be called upon to deal with and the procedures they might have to

RESCUE 911

Heroic

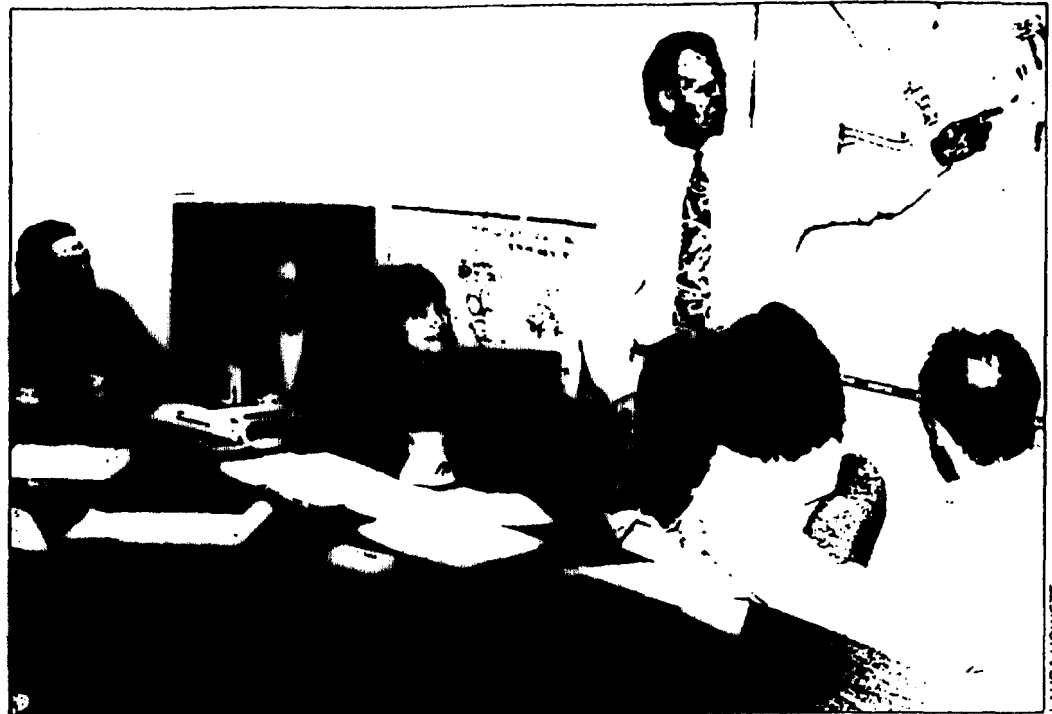
Continued from page S-3

in colleague Jean O'Neill from day one as supervising producer and head writer. Together they formulated "Rescue 911's" format, look, tone and instructional component — the latter a reflection of Shapiro's esteemed resume in educational programming, including the pioneering documentary "Scared Straight."

Approximately 100 people are responsible for putting the weekly show together, including veteran actor William Shatner, whom Shapiro suggested to host the show.

Although his "Rescue" team is committed to accuracy, Shapiro asserts that for him "the best documentaries are those that tell stories and not just give reports, and that's what 'Rescue' does."

The stories cover diverse topics, from the kidnapping of a little girl, whose young friend helps mobilize an entire community to assist in the capture of



Safety-conscious producers carefully outline and rehearse all tricky stunts.

her abductor, to the rescue of an elderly man whose car is struck by a runaway train and dragged more than a mile.

Not all segments end happily. For instance, the train vic-

tim's wife dies in the accident. However, all involve heroic acts by civilians or professionals whose job it is to save lives.

"When we first started, we had our research staff calling all

over the country," says Shapiro. "And that, along with the use of the computer — tapping into Lexis-Nexis — is how we got our stories. Once we got on the air, we began to get a vast num-

Honors and Awards

People's Choice Award for Best New Dramatic Series

1989 Award of Excellence, American College of Emergency Physicians, in recognition of superior news reporting on the specialty of emergency medicine

President's Award, National Academy of Emergency Medical Dispatch

Service Award, National Emergency Number Assn.

Presidential Leadership Assn., National Association of Emergency Medical Technicians

Award of Merit, Associated Public-Safety Communications Officers

Public Education Award, New York State Schools Transportation Safety Program

Certificate of Appreciation, American Red Cross

Presidential Leadership Award, Mid-Coast Emergency Medical Services Council Inc., Region VI, Maine

1990 President's Award, American College of Emergency Physicians, for outstanding achievement in furthering public appreciation of emergency medicine

1990 EMS Public Education Award, Commonwealth of Kentucky, Cabinet for Human Resources, Department for Health Services, Emergency Medical Services Branch

Media Excellence Award, Vermont EMS Conference, April 6, 1991

Certificate of Appreciation, Maryland State Fireman's Assn., June 19, 1991.

Minuteman Award, July 4, 1992, Huntington Beach, Calif.

Certificate of Appreciation, Lake Mead Nat'l Recreation Area, National Park Service.

Certificate of Appreciation, City of Santa Clarita, Calif., Sept. 22, 1990.

Southern Fire Command Service, Auckland, New Zealand.

Lamar University Achievement Award, 1992, Beaumont, Texas

Certificate of Appreciation, the Advisory Commission on State Emergency Communications, Texas, Sept. 11, 1992.

First Place, American College of Emergency Physicians 1991 Awards of Excellence.

Educational Awareness Award, 1992, Beverly Hills CPR

Proclamation of "Rescue 911 Day," City of Los Angeles, Sept. 15, 1992.

Community Service Recognition, National Safety Council, September 1992.

Angel Award, Best Action Television Series of 1992, to be presented Feb. 18.

Genesis Award, Outstanding Television Reality Program, on-going commitment, to be presented by the Ark Trust on Feb. 28

Congratulations Arnold!

*We've enjoyed keeping
you "legal" for 15 years.*

*Dixon Q. Dern
Jon F. Vein
Warren D. Dern*

**IF... 100 episodes saved over 100 lives
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RESCUE 911

Jean O'Neill
Supervising producer
head writer

A Harvard graduate with a degree in English, Jean O'Neill is supervising producer and head writer of "Rescue 911."

O'Neill started out in TV working for an investigative reporting group based at KCET, Los Angeles' public TV outlet. She has been with Arnold Shapiro Prods. almost from its inception in 1982.

One of her first projects for the company was a humorous pet show titled "Pet Peeves," in which, as O'Neill puts it, "pets write in their complaints about their owners." The show ran for two seasons on the Cable Health Network (now Lifetime).

She has since developed, written, produced and directed a number of non-fiction projects, including two reality programs for CBS: "True Detectives," sharing executive producer credit with Arnold Shapiro, and "Secret Lives of Husbands & Wives," as supervising producer and writer.

In the dramatic arena, O'Neill produced two telefilms for CBS: "Goodnight Sweet Wife: A Murder in Boston," starring Ken Olin, and a still-to-be-titled bigamy story starring Beau Bridges, based on a true story of a Stanford doctor who died of a heart problem at age 52, leaving behind three wives. O'Neill also produced the CBS Schoolbreak special "The Drug Knot" and the Wonderworks drama "Hiroshima Maiden."



ber of proposals from the professional communities as well as from viewers who had personal experiences in which they wanted to pay tribute to their rescuers."

About half the show's stories result from unsolicited submissions, while the other half is culled from research. "Rescue 911's" research staff now pursues stories all over the world, having shot segments in more than a half-dozen countries.

According to Shapiro, many of "Rescue 911's" features might be characterized by the medical community as "miracle stories." Against all odds, "somebody who should be a quadriplegic his whole life walks down the aisle and receives his high-school diploma," he says somewhat gleefully.

The show's mostly upbeat, inspirational nature appeals to a wide demographic base, includ-

ing viewers as young as 3 years old. Because of the youth audience, the producers have toned down the level of violence when it occurs. "We know that we have impressionable kids watching," says Shapiro. "We know that we can tell the story suggesting things without graphically showing them. For instance, we will never show a rape."

Arnold Becker, CBS TV's vp research, says "Rescue 911" is the network's strongest show among children. "We've got 20 million to 25 million people watching every week," says Shapiro. "A lot of those are kids. And we're talking about life-or-death situations. So if we communicate the wrong message or do something inappropriate, we can be affecting lives in a serious way."

Shapiro and his staff are also highly sensitive to racial stereo-

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To
Arnold Shapiro
&
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RESCUE 911

Ronnie Lynn Weinstock Coordinating producer

Ronnie Lynn Weinstock, "Rescue 911" coordinating producer, has been with Shapiro Prods. for three-and-a-half years. Research is her strong suit, with director credits on "Rescue 911" and "True Detectives," as well as ABC's daily live show, "Home."

She first worked on a Shapiro project as associate producer of the Emmy-nominated "Scared Straight! Ten Years Later," which aired in 1987. She served in the same capacity on "Men Are Just Desserts," "A Hero Is More Than Just a Sandwich," "Smart Cookies Don't Crumble" and "King Kong! The Living Legend."

After completing studies at Cal State Northridge, where she double majored in radio-TV broadcasting and English, Weinstock began her TV career as segment producer on Paramount TV's syndicated "America" and "Breakaway," another syndicated one-hour daily.



types, backing away from certain stories that might reinforce fears that are statistically unfounded. In stories that do depict minority criminal activity, the producers require a positive minority role to be involved. "And if there isn't, we'll probably not do the story, more often than not," says Shapiro.

Such discretions have contributed to the show's favorable ratings. In its first three seasons, "Rescue 911" averaged a 13.9 rating and a 22 share, with an aggregate top-30 placement at season's end, according to figures supplied by the Nielsen Television Index. Between mid-November and late December 1992, the show placed in the top 16 four times, usually winning all or half of a tough Tuesday-night time slot that includes stiff competition from ABC's "Full House" and "Hangin' With Mr. Cooper." At press time, the show had scored a 16.3/24 and a 16.7/25 in the second and third weeks of the January Nielsen ratings.

Becker describes the show's appeal in one word: *heroism*. "It's really everyday people being heroes," explains the network executive. "That's what I

regard as being the heart of the show."

The show has also found success overseas, airing in 55 foreign countries. Producer-director Jim Milio explains that "there's a certain appeal about saving lives that's universal. The show engenders a good feeling."

Five countries are even doing their own version of "Rescue 911": Holland, France, Germany, Italy and Russia. The latter nation, according to Weinstock, has broadcast only two American series to date, "60 Minutes" and "Rescue 911." The foreign versions consist of either indigenous incidents or dubbed versions of American stories. Because the emergency number "911" only applies to the United States, French broadcasters call the program "Night of the Heroes," while Germans describe it as "Emergency Call."

On the homefront, "Rescue 911" will be tested this September in syndication at a half-hour instead of an hour.

Marc Grayson, senior vp at MTM Television Distribution, which will market and sell the show to TV stations across the

Continued on page S-16

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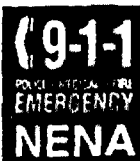
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RESCUE 911

Jim Milio
Producer/director

A producer and writer of TV shows and movies for the past 15 years, Milio serves as producer-director of "Rescue 911."

In 1984, he was nominated for a Writers Guild Award for "Prime Times," an NBC comedy special starring Leslie Nielsen. He also received an Emmy Award nomination in 1987 as the producer of "Great Moments in Disney Animation," a one-hour special for ABC.

Other TV specials he has written and/or produced include "A Rock 'n' Roll Christmas," "Inside Miami Vice" and "Disney Goes to the Oscars." Milio also spent a year working for Jacques Cousteau as a producer, director and associate producer of several Cousteau Society projects, including the PBS television series "Oasis in Space."

For the big screen, Milio produced the independent feature "Prince Jack" and associate produced Paramount Pictures' "It Came From Hollywood."

Most recently, he produced six episodes of "True Detectives" for CBS. Milio has co-written 11 episodes of "Rescue 911."



Herole

Continued from page S-12

country, cites three reasons why MTM has high prospects for "Rescue 911" in syndication: Its ratings are on the rise, the demographics are strong across the board and reality programming has been quite successful as a genre. For the week ended Jan. 10, three reality-based shows finished in the top 15, according to A.C. Nielsen Co. figures.

MTM, which also syndicates CBS sitcom "Evening Shade," sold "Rescue" nationally at last month's NATPE convention in San Francisco.

Other syndication experts in the field agree that reality-based shows like "Rescue 911" will proliferate in the syndication arena.

"There are a lot of time periods in which they can run," says Bob Cohen, an independent consultant who packages shows for the syndication market. "In syndication you have to be sensitive to time-period flexibility.

In many cases, stations won't give you specific slots, and if it's a once-a-week show you have to be able to run in early fringe, maybe even in primetime on an independent, and possibly in late-night."

Weinstock says the show has been positioned for early fringe and primetime access.

Despite segments shot on location across the United States and, subsequently, the world over, "Rescue 911" has remained relatively inexpensive to produce.

"I seem to recall that the budget on 'Rescue 911' is literally half of what the network normally pays for an hour show," says Cohen.

"The above-the-line cost is virtually nonexistent for these reality-based shows," he adds, "which is a definite advantage.

The programs are high concept, with the concept itself generating a continuing story line. In the case of '911,' the title tells you what it's going to be. You don't have to worry about the creative people coming up with

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RESCUE 911

Aaron Kass
Co-writer / segment producer

Aaron Kass, co-writer of "Rescue 911," got his start in entertainment working at Alan Landsburg Prods. In his four years with the company, he served as story editor and writer of the ABC series "That's Incredible," writer of the ABC pilot "Success: It Can Be Yours," and story editor of the ABC pilot "Search," a project that teamed Landsburg Prods. with the New York Times.

Kass left Landsburg to serve as creative consultant to the syndicated series "P.M. Magazine," segment producer and writer of the syndicated "On Trial" and producer and writer of the syndicated special "There Really Is a Santa Claus." In addition to writing, Kass is also a senior segment producer for "Rescue 911."



new angles, as occurs with all the various elements of an entertainment vehicle."

The budget is kept in check, Milio points out, by shooting the show on tape instead of film. And the people involved in the incidents who cooperate don't get paid; the actors used are compensated at AFTRA scale. In addition, much of the below-the-line help is hired locally.

The show's one luxury is top-flight stunt coordinators, who are recruited by line producer Susan Ross. In many ways the "stunt sequence becomes the story," Ross says. Accordingly, the show doesn't skimp in re-creating some fairly hairy scenes, attracting some of the best in the business. Ross says her most difficult stunt piece took place on the island of Maui. It called for an 18-wheel truck hauling several tons of sand to jackknife onto another car, trapping the car's driver beneath.

However, as Weinstock points out, not all the show's sequences are death-defying. Some even include a bit of humor, such as the segment the producer refers to as "Freezer

Tongue," a story about a 12-year-old boy who was babysitting a 2-year-old niece. "Somehow his tongue got stuck to the bottom of the freezer while attempting to get some ice cream," explains Weinstock. "The little niece dialed 911 and handed him the phone." The mush-mouthed call was a live recording.

In the meantime, "Rescue 911's" heroic, altruistic message will continue to hit home for CBS, educating its viewers and changing the lives of those it depicts.

"A lot of the incidents portrayed in our show have left people in a state of fear or panic or phobia," explains Shapiro. "When you go through something like this, you don't come out of it unscarred."

"But reliving the story for our cameras — especially if the real people are involved in aspects of the re-creation — helps the people psychologically get past it. It's just like the vet who goes back to the battlefield where he was shot and he somehow relives the trauma and goes home freed. That seems to have happened to several people who've done this." □

Education First

Arnold Shapiro views his life's work more as teaching than producing.

BY STEVE CHAGOLLAN

From his first producing credit at age 23 on a KCBS show called "Scholarquiz" in 1964 to his company's current flagship series, "Rescue 911," Arnold Shapiro has sought to educate as well as entertain.

The trait even comes out in conversations with the producer, who dutifully informs you that "Rescue 911" should be referred to as *nine one-one* as opposed to *nine eleven*, because if kids ever find themselves in an emergency situation, "they might be confused if they can't find an 11 symbol on their telephones."

This concern for kids has become an intrinsic part of almost every project the producer has worked on, including the trailblazing 1979 documentary "Scared Straight," which caused a ripple effect in the industry with its brutally frank warnings to children about the horrors of prison, as well as last year's "Scared Silent," another landmark documentary that addressed that most insidious of society's ills, child abuse.

The former program won an Academy Award, two national Emmys, six Los Angeles-area Emmys and about 40 other awards. The latter carries the distinction of being the most watched documentary special ever broadcast on American television.

"Scared Silent" was also the first non-news event aired in primetime by three broadcast networks simultaneously — CBS, NBC and PBS. (ABC aired the special within 48 hours during that same Labor Day weekend in 1992.) Childhelp USA's hotline received more than 113,000 calls in the first 72 hours following the simulcast.

"Kids are 25% of our population and 100% of our future," says Shapiro. His concern inspires countless programs that he's



Shapiro bases all projects on fact.

produced over the years, even if their titles lead you to believe otherwise.

For example, on the surface, "Crimes of Violence" might suggest some lurid, hard-boiled show painted with the garish tones of tabloid television. Instead, the two-hour special, hosted by Louis Gossett Jr., analyzed a number of case studies that linked violent crime with how the perpetrators were raised.

Shapiro traces his industry aspirations back to when he was 9 years old, when his parents became the first on the block to get a television. "I was mesmerized by the invention," he recalls. "By the time I was 11 I knew that I wanted to be a producer because that was the person in charge."

Shapiro's early progress toward that goal turned out to be rather auspicious. At 16, while still attending Alhambra High School in Southern California he met a producer, Al Burton, who became his mentor. As a result, Shapiro worked on Burton's live TV shows — variety specials, beauty pageants and the

like — through his junior and senior years in high school and on through college. By the time he graduated from UCLA in 1962 as a theater arts/television major, Shapiro had logged hundreds of hours of experience in live television.

In the meantime his social conscience kicked in. "I wanted to make documentaries in the hopes of improving society," he says, "so when I graduated, I wanted to do programs that taught people something, that changed their behavior or attitudes. Virtually every show I've done has had that component."

Shapiro started off in local television, producing his first documentary in 1969. Eventually, KTLA hired him in 1977 to be director of development and production for an entity called Golden West Television, which produced programs for the syndication market. "Scared Straight" was one of eight syndie specials that Shapiro made for the outfit. A Reader's Digest article that

Continued on page 5